

**CITY OF NEWPORT BEACH
PLANNING COMMISSION STAFF REPORT**

November 21, 2013 Meeting

Agenda Item 2

SUBJECT: Davis Lot Merger and Setback Determination - PA2013-176
106 6th Street and 524 West Ocean Front

- Lot Merger No. LM2013-003
- Staff Approval No. SA2013-011 for an Alternative Setback Determination

APPLICANT: Morgan Davis

PLANNER: Fern Nueno, Associate Planner
(949) 644-3227, fnueno@newportbeachca.gov

PROJECT SUMMARY

A lot merger application and a request to waive the parcel map requirement for two properties, under common ownership, located on Balboa Peninsula. The merger would combine the two parcels into one lot for a single-unit residential development. The applicant also requests an Alternative Setback Determination, which is intended in cases where the orientation of an existing lot and the application of the standard setbacks are not consistent with other lots in the vicinity. The Alternative Setback Determination would establish all setbacks generally consistent with adjacent properties.

RECOMMENDATION

- 1) Conduct a public hearing; and
- 2) Adopt Resolution No. ____ approving Lot Merger No. LM2013-003 and Staff Approval No. SA2013-011 (Attachment No. PC 1).



LOCATION	GENERAL PLAN	ZONING	CURRENT USE
ON-SITE	Single-Unit Residential Detached (RS-D)	Single-Unit Residential (R-1)	Single-unit dwellings
NORTH	Two-Unit Residential (RT) and Mixed-Use Vertical (MU-V)	Two-Unit Residential (R-2) and Mixed-Use Vertical (MU-V)	Duplexes and mixed-use structures
SOUTH	Parks and Recreation (PR)	Parks and Recreation (PR)	Beach
EAST	Single-Unit Residential Detached(RS-D)	Single-Unit Residential (R-1)	Single-unit dwellings
WEST	Single-Unit Residential Detached (RS-D)	Single-Unit Residential (R-1)	Single-unit dwellings

INTRODUCTION

Project Setting

The subject properties are located on the Balboa Peninsula on West Ocean Front and 6th Street. Each lot is developed with a single-unit residential dwelling. The 106 6th Street lot is 2,100 square feet in area (30' X 70') and the 524 West Ocean Front lot is 3,150 square feet in area (35' X 90'). The typical lots in the area are 30 feet in width and 70 feet in depth; however, several lots in the area are wider than 30 feet. The subject properties are relatively flat with an average slope of less than 20 percent.

Project Description

The Lot Merger application would result in one 5,250-square-foot lot for single-unit residential development. The 106 6th Street lot is developed with a single-unit dwelling with vehicular access from the alley. The 524 West Ocean Front lot is developed with a single-unit dwelling with two one-car garages accessed from 6th Street. One unit would be demolished as part of the Lot Merger project. Plans for redeveloping the site have not been submitted and are not required to consider the subject application. The applicant has indicated an intent to demolish the house located at 106 6th Street, to construct a garage off of the alley, and to connect the garage to the existing house located at 524 West Ocean Front. The applicant requests the Alternative Setback Determination to establish setbacks other than the default setbacks that would be required for the merged lot.

Background

The applicant originally requested the Lot Merger, which was scheduled for review by the Zoning Administrator on October 24, 2013. However, prior to the Zoning Administrator Hearing, the applicant amended the application to request an Alternative Setback Determination, which is typically reviewed by the Planning Commission. The Zoning Administrator forwarded the Lot Merger application to be reviewed concurrently with the requested alternative setbacks by the Planning Commission. The staff report is provided as Attachment No. PC 3 and the correspondence received for that hearing is Attachment No. PC 4.

On September 10, 2013, the City Council approved Ordinance No. 2013-17, amending Title 19 (Subdivisions) to revise the required findings for Lot Mergers. The ordinance became effective on October 24th, and the application has been evaluated based upon these new findings.

DISCUSSION

Analysis

General Plan, Local Coastal Plan, and Zoning Code

The Land Use Element of the General Plan designates the subject properties for Single-Unit Residential Detached (RS-D) uses. The Coastal Land Use Plan also designates the subject properties as Single Unit Residential Detached (RSD-C), which provides for single-unit residential development. The subject properties are located within the Single-Unit Residential (R-1) Zoning District, which is intended to provide for areas appropriate for a detached single-family residential dwelling units located on a single lot. The proposed project is consistent with these designations, as the merged lot will retain the designations, and one unit will be demolished.

Consistent with General Plan Policy LU 6.16.3 (Property Access) and Coastal Land Use Plan Policy 2.9.3-10, future redevelopment of the property will provide vehicular access from the alley and the curb cut on 6th Street will be closed, as required by Condition of Approval No. 5 in the draft Resolution.

Lot Merger

Redevelopment of the site would be required to be consistent with the Zoning Code standards, including, floor area, setback requirements, and 3-car garage parking for a house with over 4,000 square feet of floor area. Section 20.18.030 of the Zoning Code establishes minimum lot width and area requirements. Due to the shape and corner location, the proposed lot would not meet the lot width requirement of 60 feet or the minimum lot size for newly created lots of 6,000 square feet in area. However, the resulting merged lot would be more consistent with these minimum requirements. The typical lots in the area are not consistent with the minimum width and area requirements of the Zoning Code because of how the area was originally subdivided and developed; however, lots that have been merged and reoriented in the past are generally consistent with current width and area requirements, which are shown in Table 2.

The merged lot will retain the R-1 zoning designation, consistent with the surrounding area, and one of the existing dwelling units will be demolished prior to recordation of the Lot Merger. This will result in reduced density and a small decrease in traffic and parking demand. Furthermore, future redevelopment of the property will require closure of an existing driveway approach on 6th Street and vehicular access from the alley, resulting in additional on-street parking. The merged lot will not be deprived of legal access as the lot will abut a street, an alley, and the beach front walk. No adjoining parcels will be deprived of legal access as a result of the merger, as vehicular access to and from the subject site and adjacent properties would remain via public alleys.

The new finding for consideration is Finding E in the draft Resolution:

- E. The lots as merged will be consistent with the pattern of development nearby and will not result in a lot width, depth or orientation, or development site that is incompatible with nearby lots. In making this finding, the review authority may consider the following:*
- a. Whether development of the merged lots could significantly deviate from the pattern of development of adjacent and/or adjoining lots in a manner that would result in an unreasonable detriment to the use and enjoyment of other properties.*
 - b. Whether the merged lots would be consistent with the character or general orientation of adjacent and/or adjoining lots.*
 - c. Whether the merged lots would be conforming or in greater conformity with the minimum lot width and area standards for the zoning district*

The combined lot would not be rectangular in shape as is typical for the area. However, the application of the alternative setbacks would ensure the development is consistent with the neighborhood. The house that could be constructed on the merged lot would be longer than most houses in the area as viewed from 6th Street, but the project viewed from the alley and West Ocean Front would remain unchanged. Staff believes that from the 6th Street vantage point, there will not be a significant deviation from the existing lot configuration with the articulation that would be provided by the suggested setbacks along the street.

Several lots in the area have been reoriented to front on West Ocean Front and West Balboa Boulevard, and 6th Street has both front and sides of residential structures facing the street. The merged lot will not meet the 60-foot lot width standard of the R-1 zone despite the added width. Additionally, the merged lot will be 5,250 square feet in area and closer to conformity with the minimum 6,000-square-foot lot area standard. While the lots in the immediate vicinity are typically 70 or 90 feet deep, a 120-foot deep lot is not a significant deviation to the pattern of development to the detriment of surrounding properties.

Pursuant to Zoning Code Section 19.08.030, the Planning Commission may waive the requirements for a parcel map for mergers resulting in the net elimination of no more than three parcels. In this case, the Lot Merger would result in one parcel being eliminated and staff recommends the waiver of the parcel map. The Lot Merger exhibit is provided as Attachment No. PC 4.

Alternative Setback Determination

Zoning Code Section 20.30.110 (C) states that in cases where the orientation of an existing lot and the application of the setback area are not consistent with the character or general orientation of other lots in the vicinity, the Community Development Director may redefine the location of the front, side, and rear setback areas to be consistent with

surrounding properties. The applicant requests the Alternative Setback Determination to establish setbacks should the Lot Merger be approved. To ensure surrounding property owners are notified, the staff referred the request to the Planning Commission for consideration and final action.

To determine the appropriate setback requirements, staff considered the proximity of buildings, the resulting floor area ratio, other relevant development standards, and maneuvering within the alley. The proposed setback areas were compared with staff's recommendation for the subject lot, standard setbacks for typical lots in the area, and standard setbacks for wider than typical lots in the area.

Setback Compatibility

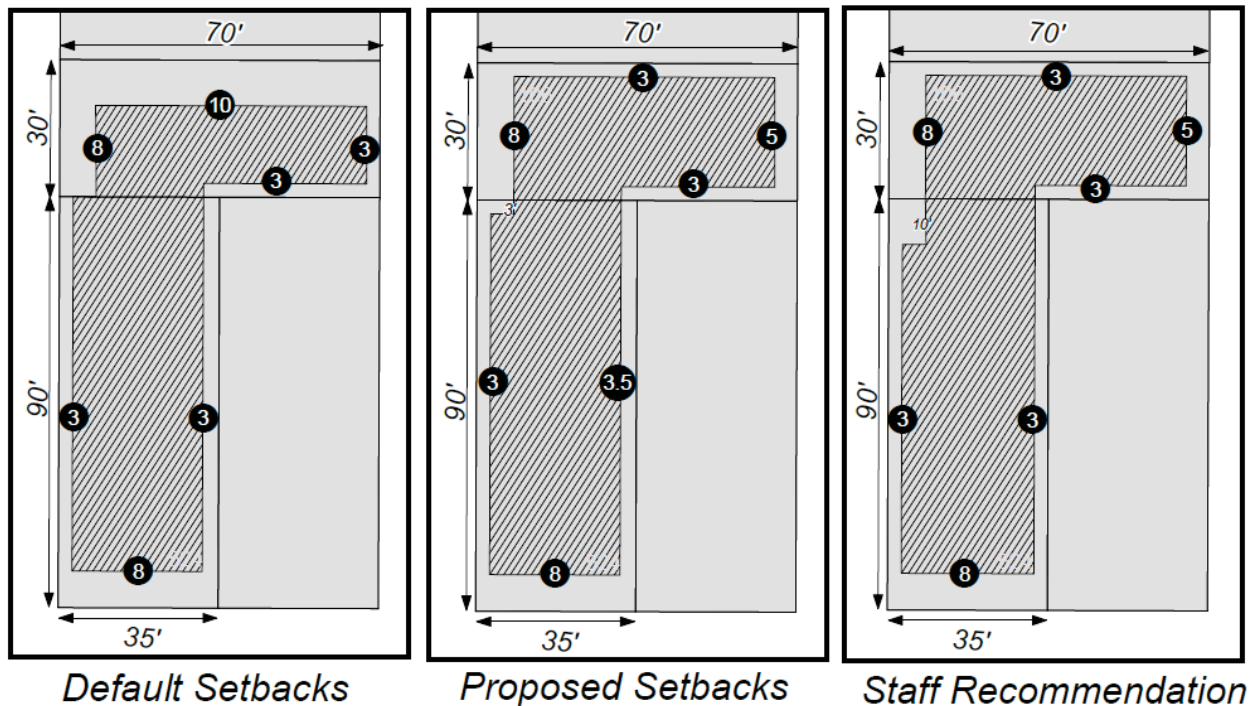
The default setbacks for the merged lot are depicted below and in Attachment No. PC 5. The front setback along West Ocean Front and 6th Street are designated as 8 feet by the Setback Map (Attachment No. PC 6). The rear and side setback requirements are established pursuant to Zoning Code Section 20.18.030. The required rear setback is 10 feet for the northernmost property line adjacent to 523 Balboa Blvd. The 6th Street side setback is 3 feet, the interior side setbacks are 3 feet, and the side setback to the alley would be 3 feet.

As depicted below and in Attachment No. PC 5, the applicant proposes to maintain the 8-foot front setbacks along West Ocean Front and 6th Street established on the Setback Map, and to continue the 8-foot setback southerly within the West Ocean Front lot for an additional 3 feet. The applicant requests a 3-foot rear setback along the northernmost property line. The applicant requests a 5-foot side setback to the alley, 3-foot street side setback, 3-foot interior side setback on the property line adjacent to the rear of the 522 West Ocean Front lot, and a 3.5-foot interior side setback from the eastern property line shared with 522 West Ocean Front.

The applicant and staff are in agreement with the front, alley, street-side, and the 3-foot interior side setback on the property line adjacent to the rear of the 522 West Ocean Front lot. Staff agrees with the 3-foot rear setback request because the rear setback area abuts the side setback of the adjacent lot and there would be a typical 6-foot separation between buildings on abutting lots, which is not detrimental to either lot. One purpose for the 10-foot rear yard setback is to provide usable outdoor open space, but in this case, the beach-facing front yard setback provides outdoor open space. Furthermore, the default 10-foot rear setback would not allow enough width at the alley to construct a typical 2-car garage.

Staff's recommendation (shown below and in Attachment No. PC 5) differs from the applicant's request in two areas: the extension of the 8-foot setback along 6th Street and the interior side setback from the eastern property line shared with 522 West Ocean Front. Staff believes a larger street side setback area will provide additional building articulation and reduce the length of the building mass in one position. It will also

provide additional open area abutting the street. The difference between 3 and 3.5 feet is not significant and a 3-foot interior side setback would be consistent with the Zoning Code requirement for a 35-foot wide lot, and would provide the typical separation between the subject property and 522 West Ocean Front. A 3-foot setback will not preclude a house from being setback greater than 3 feet. Staff believes that the recommended setbacks are compatible with the neighborhood, provide adequate setback area for light and air, would not be detrimental to the adjacent properties, and would meet the intent of the Zoning Code setback area requirements.



Development Standard Comparison

Setback areas determine the buildable area of the lot, which affects other development standards. Section 20.48.180 (Residential Development Standards and Design Criteria) establishes third floor area limitations of 15 percent of the buildable area (for lots wider than 30 feet) and an open volume requirement of 15 percent of the buildable area. The third floor is also required to step back an additional 15 feet from the front and rear setback lines and 2 feet from the side setback lines (for lots 30 feet or wider). Due to the L-shape of the merged lot, staff recommends that the 15-foot third floor step backs be measured from the front setback line along West Ocean Front and the rear setback line. The 2-foot side step backs would be required from 6th Street side and interior side setbacks. Table 1 provides a comparison of the buildable area, third floor area, and open volume requirement for the subject property with default setbacks, as proposed by the applicant, and staff's recommendation, and for a typical lot and wider lot in the area.

Table 1
Development Standard Comparison

	Buildable area (SF) ¹	Third Floor Area (SF)	Open Volume (SF)
Merged Lot - Default	3,453	518	518
Applicant Proposed	3,760.5	555	555
Staff Recommendation	3,768	565	656
Typical - 30' X 70'	1,368	205	205
Wider lot - 45' X 70'	2,109	316	316

¹ The buildable area of a lot is the lot area excluding the required setback areas.

Floor Area Comparison

Table 2 provides a comparison of the lot area, buildable area, floor area limit (FAL), floor area ratio (FAR), and setback area as a percentage of the lot area for the applicant's request, staff's recommendation, typical lots in the area, and wider lots in the area. The FAR is the floor area to lot area ratio and is a method to compare the maximum square footage allowed on a site based on the lot size.

Table 2
Floor Area and Setback Comparison

	Lot Area (SF)	Buildable Area (SF)	FAL (SF) ¹	FAR	Setback as % of Lot
Subject Lot					
Merged - Default Setbacks	5,250	3,453	6,906	1.32	34.23
Applicant Proposed	5,250	3,760.5	7,521	1.43	28.37
Staff Recommendation	5,250	3,768	7,536	1.44	28.23
Typical Lot in Area					
30' X 70'	2,100	1,368	2,736	1.30	34.86
Nearby Lots					
522 W. Ocean Front - 35' X 90'	3,150	2,233	4,466	1.42	29.11
514 W. Ocean Front - 45' X 70'	3,150	2,109	4,218	1.34	33.05
620 W. Ocean Front - 60' X 70'	4,200	3,068	6,136	1.46	26.95
628 W. Ocean Front - 70' X 90'	6,300	4,884	9,768	1.55	22.48
706 W. Ocean Front - 60' X 70'	4,200	2,964	5,928	1.41	29.43

¹ The FAL (maximum square footage) for R-1 properties on the Balboa Peninsula is two (2) times the buildable area of the lot.

The applicant's proposed setbacks provide an FAR of 1.43 and FAL of 7,521 square feet, which are higher than the typical lots in the area, but comparable to nearby larger lots. The maximum square footage that could be built on the subject lot would increase by approximately 615 square feet with the proposed alternative setbacks as compared with the default setbacks. As proposed, the setback area as a percentage of the lot would be less than the typical lots in the area, but similar to the larger lots in the vicinity.

The staff recommended setbacks provide an FAR of 1.44 and FAL of 7,536 square feet, which are higher than the typical lots in the area, but comparable to nearby larger lots. The staff recommendation includes a setback area as a percentage of the lot that would be less than the typical lots in the area, but similar to the nearby larger lots.

Summary

The applicant requests the Lot Merger and Alternative Setback Determination resulting in an L-shaped lot that is larger than typical lots in the area, but not necessarily out of character with the neighborhood. Despite the fact that the house that could be built after the merger would be larger and longer than other homes on the area, staff believes the project can be found compatible considering appropriate setbacks of the building bulk, FAR of larger nearby lots, reduced density in the area, alley access for the property, and additional on-street parking.

Alternatives

The Planning Commission could deny the Lot Merger application if any of the required findings cannot be made. Should the Lot Merger application be denied, the Alternative Setback Determination would not be applicable and would necessitate denial as well.

In conjunction with approval of the Lot Merger application, the Planning Commission could deny or modify the Alternative Setback Determination. If the request for Alternative Setbacks is denied, the subject property would retain the default setbacks.

Environmental Review

The project is categorically exempt under Section 15305, of the California Environmental Quality Act (CEQA) Guidelines - Class 5 (Minor Alterations in Land Use Limitations), which exempts minor alterations in land use limitations in areas with an average slope of less than 20 percent, which do not result in any changes in land use or density. The proposed project would merge the lots and alter the required setbacks, but will not result in a physical change to the existing lot, or any changes in land use or density.


Public Notice

Notice of this application was published in the Daily Pilot, mailed to all owners of property within 300 feet of the boundaries of the site (excluding intervening rights-of-way and waterways) including the applicant and posted on the subject property at least 10 days before the scheduled meeting, consistent with the provisions of the Municipal Code. Additionally, the item appeared on the agenda for this meeting, which was posted at City Hall and on the City website.

Prepared by:


Fern Nueno, Associate Planner

Submitted by:


Brenda Wisneski, AICP, Deputy Director

ATTACHMENTS

- PC 1 Draft Resolution – Approve
- PC 2 Draft Resolution – Deny
- PC 3 Zoning Administrator Staff Report from October 24, 2013
- PC 4 Correspondence Received
- PC 5 Lot Merger
- PC 6 Setback Comparison
- PC 7 Setback Map S-2E (excerpt)

Attachment No. PC 1

Draft Resolution – Approve

RESOLUTION NO. ####

**A RESOLUTION OF THE PLANNING COMMISSION OF THE
CITY OF NEWPORT BEACH APPROVING LOT MERGER NO.
LM2013-003 AND STAFF APPROVAL NO. SA2013-011 FOR A
LOT MERGER AND ALTERNATIVE SETBACK
DETERMINATION LOCATED AT 106 6TH STREET AND 524
WEST OCEAN FRONT (PA2013-176)**

THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH HEREBY FINDS AS
FOLLOWS:

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Morgan Davis, with respect to property located at 106 6th Street and 524 West Ocean Front, and legally described as Lot 15, Block 10, East Newport Tract and Parcel 1 of Lot Line Adjustment LLA2001-008 requesting approval of a Lot Merger and Alternative Setback Determination.
2. The applicant proposes to merge the two lots and requests a waiver of the parcel map requirement. The applicant also requests an Alternative Setback Determination to establish all required setbacks for the merged lot.
3. The subject properties are designated as Single-Unit Residential Detached (RS-D) in the General Plan Land Use Element and are located within the Single-Unit Residential (R-1) Zoning District.
4. The subject properties are located within the coastal zone and the Coastal Land Use Plan category is Single Unit Residential Detached (RSD-C).
5. Zoning Code Section 20.30.110 (C) states that in cases where the orientation of an existing lot and the application of the setback area are not consistent with the character or general orientation of other lots in the vicinity, the Community Development Director may redefine the location of the front, side, and rear setback areas to be consistent with surrounding properties. In this case, so that surrounding property owners would be notified of the application, the Community Development Director referred the request to the Planning Commission for consideration and final action.
6. A public hearing was held on October 24, 2013, in the Corona del Mar Conference Room at 100 Civic Center Drive, Newport Beach, related to the requested Lot Merger only. A notice of time, place, and purpose of the meeting was given in accordance with the Newport Beach Municipal Code. Evidence, both written and oral, was presented to, and considered by, the Zoning Administrator at this meeting. The Zoning Administrator referred the Lot Merger application to the Planning Commission to allow for concurrent review with the Alternative Setback Determination.

7. A public hearing was held on November 21, 2013, in the City Council Chambers at 100 Civic Center Drive, Newport Beach. A notice of time, place, and purpose of the meeting was given in accordance with the Newport Beach Municipal Code. Evidence, both written and oral, was presented to, and considered by, the Planning Commission at this meeting.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. This project has been determined to be categorically exempt under the requirements of the California Environmental Quality Act under Class 5 (Minor Alterations in Land Use Limitations).
2. Class 5 consists of minor alterations in land use limitations in areas with an average slope of less than 20 percent, which do not result in any changes in land use or density. The proposed project would merge the lots and alter the required setbacks, but will not result in a physical change to the existing lot or structure, or any changes in land use or density.
3. The Planning Commission finds that judicial challenges to the City's CEQA determinations and approvals of land use projects are costly and time consuming. In addition, project opponents often seek an award of attorneys' fees in such challenges. As project applicants are the primary beneficiaries of such approvals, it is appropriate that such applicants should bear the expense of defending against any such judicial challenge, and bear the responsibility for any costs, attorneys' fees, and damages which may be awarded to a successful challenger.

SECTION 3. REQUIRED FINDINGS.

Lot Merger

In accordance with Section 19.68.030 and 19.08.030 of the Newport Beach Municipal Code, the following findings and facts in support of such findings are set forth in regards to the subject lot merger:

Finding:

- A. *Approval of the merger will not, under the circumstances of this particular case, be detrimental to the health, safety, peace, comfort and general welfare of persons residing or working in the neighborhood of such proposed use or be detrimental or injurious to property and improvements in the neighborhood or the general welfare of the City, and further that the proposed lot merger is consistent with the legislative intent of this title.*

Facts in Support of Finding:

1. The lot merger to combine two existing legal lots by removing the interior lot line between the lots will not result in the creation of additional parcels.

2. The project is in an area with an average slope of less than 20 percent.
3. Pursuant to Municipal Code requirements, redevelopment of the property will require vehicular access from the alley and closure of an existing curb cut on 6th Street creating additional on-street parking.
4. The future development on the proposed parcel will be subject to the Zoning Code development standards, including, floor area, setback requirements, and 3-car garage parking for a house with over 4,000 square feet of floor area.
5. The Alternative Setback Determination will ensure that setback requirements and future development on the merged lot are consistent with surrounding properties and will provide adequate space for vehicle maneuverability in the alley.

Finding:

B. The lots to be merged are under common fee ownership at the time of the merger.

Facts in Support of Finding:

1. The two lots to be merged are under common fee ownership.

Finding:

C. The lots as merged will be consistent or will be more closely compatible with the applicable zoning regulations and will be consistent with other regulations relating to the subject property including, but not limited to, the General Plan and any applicable Coastal Plan or Specific Plan.

Facts in Support of Finding:

1. The merged lot will retain the Single-Unit Residential zoning designation, consistent with the surrounding area. The R-1 Zoning District is intended to provide for areas appropriate for a detached single-family residential dwelling units located on a single lot.
2. A minimum of one (1) single-unit dwelling located on the subject lots will be demolished prior to recordation of the Lot Merger, resulting in the merged lot containing one (1) dwelling unit, consistent with the General Plan, Coastal Land Use Plan, and Zoning Code.
3. Section 20.18.030 of the Zoning Code establishes minimum lot area and width requirements. Each of the two existing lots provide less than the minimum lot area and lot width requirements of the Zoning Code. The proposed merger of the lots would create one 5,250-square-foot parcel that will be more consistent with the minimum lot standards of the Zoning Code.

4. The Land Use Element of the General Plan designates the subject site as Single-Unit Residential Detached (RS-D), which applies to a range of single-family residential dwelling units. The Coastal Land Use Plan designates this site as Single-Unit Residential Detached (RSD-C) which provides for density ranges from 10.0-19.9 dwelling units per acre. The land use will remain the same and the merger is consistent with the land use designations of the General Plan and Coastal Land Use Plan.
5. Future redevelopment of the property will provide vehicular access from the alley, consistent with General Plan and Coastal Land Use Plan policies.
6. The subject property is not located within a Specific Plan area.

Finding:

D. Neither the lots as merged nor adjoining parcels will be deprived of legal access as a result of the merger.

Facts in Support of Finding:

1. The lots as merged will not be deprived of legal access as the merged lot will abut a street, an alley, and a beach front walk.
2. No adjoining parcels will be deprived of legal access as a result of the merger. The public alleys were developed to provide vehicular access for the properties located in the area, and vehicular access to and from the subject site and adjacent properties would remain via existing public alleys.

Finding:

E. The lots as merged will be consistent with the pattern of development nearby and will not result in a lot width, depth or orientation, or development site that is incompatible with nearby lots. In making this finding, the review authority may consider the following:

- a. Whether development of the merged lots could significantly deviate from the pattern of development of adjacent and/or adjoining lots in a manner that would result in an unreasonable detriment to the use and enjoyment of other properties.*
- b. Whether the merged lots would be consistent with the character or general orientation of adjacent and/or adjoining lots.*
- c. Whether the merged lots would be conforming or in greater conformity with the minimum lot width and area standards for the zoning district.*

Facts in Support of Finding:

1. The house that could be constructed on the merged lot would be longer than most houses in the area as viewed from 6th Street, but the project views from the alley and West Ocean Front would remain unchanged and would be typical for the area. The overall length of what could be developed from the vantage point of 6th Street is

mitigated by a larger setback by providing enhanced building articulation and open space.

2. Several lots in the area have been reoriented to front on West Ocean Front and West Balboa Boulevard, and 6th Street has both front and sides of residential lots and structures facing the street; therefore, the merger would not result in development that is inconsistent with the neighborhood.
3. The standard lot size of lots in the area is 30 feet by 70 feet (2,100 square feet), with nearby lots ranging from 1,830 to 6,289 square feet in area. The lots as merged will result in a 5,250-square-foot parcel that is larger than the typical lot in the area, but smaller than the minimum 6,000-square-foot lot size requirement of the Zoning Code. Therefore, the lots as merged will not create an excessively large lot that would be incompatible with the surrounding development.
4. While the lots in the immediate vicinity are typically 70 or 90 feet deep, a 120-foot deep lot is not a significant deviation to the pattern of development to the unreasonable detriment of surrounding properties.
5. Section 20.18.030 of the Zoning Code establishes minimum lot area and width requirements. Each of the two existing lots provide less than the minimum lot area and lot width requirements of the Zoning Code. The proposed merger of the lots would create one 5,250-square-foot parcel that will be more consistent with the minimum lot standards of the Zoning Code.

Finding:

F. The proposed division of land complies with requirements as to area, improvement and design, flood water drainage control, appropriate improved public roads and property access, sanitary disposal facilities, water supply availability, environmental protection, and other applicable requirements of this title, the Zoning Code, the General Plan, and any applicable Coastal Plan or Specific Plan.

Facts in Support of Finding:

1. Future improvements on the site will be required to comply with the development standards of the Municipal Code, General Plan, and Coastal Land Use Plan.
2. The proposed lot merger combines the properties into a single parcel of land and does not result in the elimination of more than one lot.
3. Approval of the proposed lot merger would remove the existing interior lot line, and allow the property to be used as a single site. The proposed lot would comply with all design standards and improvements required for new subdivisions by Title 19, General Plan, and Coastal Land Use Plan.
4. The subject property is not subject to a Specific Plan.

Alternative Setback Determination

In accordance with Zoning Code Section 20.30.110 (C), the following findings are set forth in regards to the subject Alternative Setback Determination:

1. The Municipal Code does not set forth any required findings for the approval of Alternative Setback Determinations. The application was reviewed for compatibility with the neighborhood based on setback area, floor area ratio (FAR), and other development standards, to ensure that alternative setbacks do not result in development that would be incompatible with and not detrimental to the neighborhood.
2. The application of the standard Single-Unit Residential (R-1) setbacks will result in a buildable area inconsistent with other lots in the vicinity and in the R-1 Zoning District by establishing a 10-foot rear setback adjacent to a side setback and a 3-foot side setback along a narrow alley when typically a rear yard setback of 5 feet would be required.
3. The alternative setback determination will not be detrimental to the neighborhood. The 5-foot side setback to the alley will improve vehicular maneuverability in the alley and be consistent with how typical alley setbacks are regulated. The 3-foot interior side setback and 8-foot front setback requirements are consistent with surrounding properties. The 8-foot street side setback will increase building articulation and open space mitigating the overall length of the building as viewed from 6th Street. The application of the alternative setbacks will allow development of the property with a floor area ratio that is comparable with nearby lots.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Planning Commission of the City of Newport Beach hereby approves Lot Merger No. LM2013-003 and Staff Approval No. SA2013-011, subject to the conditions set forth in Exhibit A and subject to the setbacks set forth in Exhibit B, which are attached hereto and incorporated by reference.
2. The Lot Merger action shall become final and effective ten (10) days after the adoption of this Resolution unless within such time an appeal is filed with the City Clerk in accordance with the provisions of Title 19 Subdivisions, of the Newport Beach Municipal Code.
3. The Alternative Setback Determination Staff Approval action shall become final and effective 14 days after the adoption of this Resolution unless within such time an appeal is filed with the City Clerk in accordance with the provisions of Title 20 Planning and Zoning, of the Newport Beach Municipal Code.

PASSED, APPROVED, AND ADOPTED THIS 21ST DAY OF NOVEMBER, 2013.

AYES:

NOES:

ABSTAIN:

ABSENT:

BY: _____
Bradley Hillgren, Chairman

BY: _____
Kory Kramer, Secretary

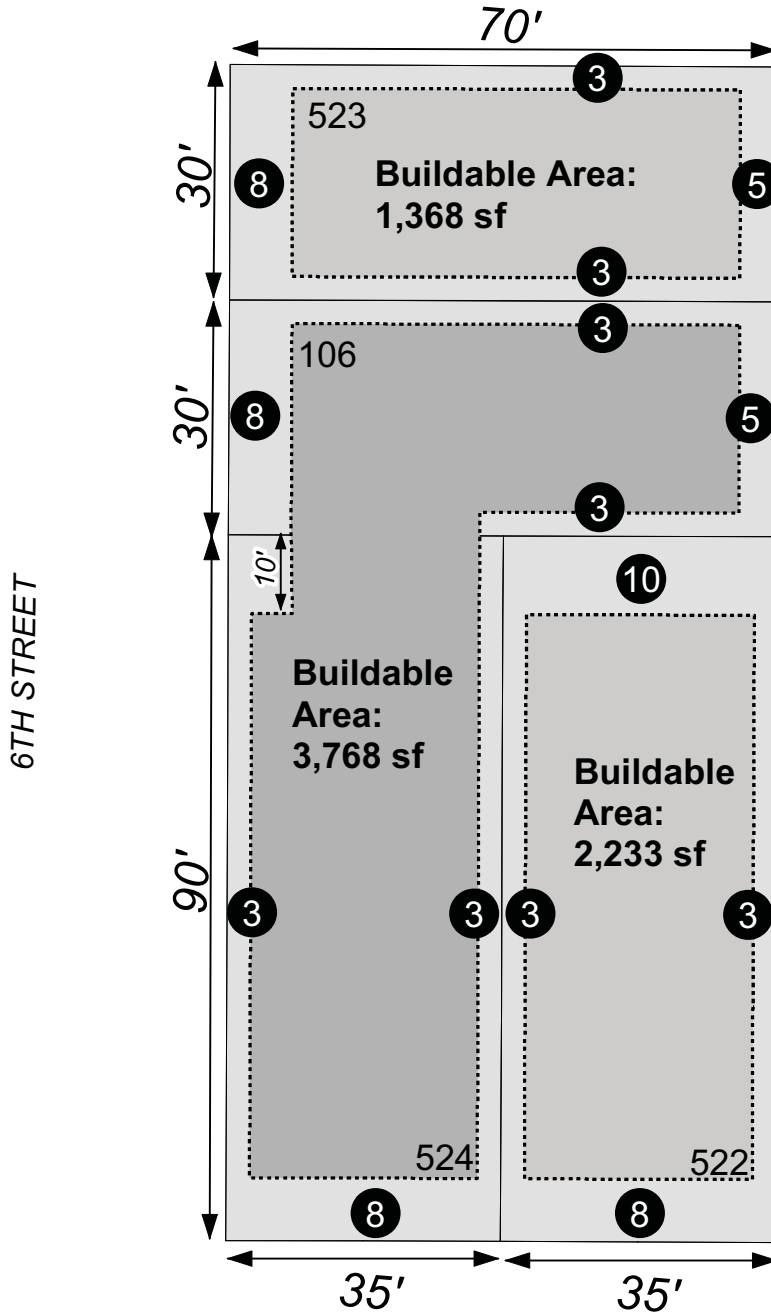
EXHIBIT "A"**CONDITIONS OF APPROVAL****PLANNING**

1. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
2. Should the property be sold or otherwise come under different ownership, any future owners or assignees shall be notified of the conditions of this approval by either the property owner or the leasing agent.
3. Prior to recordation of the lot merger, one or both dwelling units shall be demolished to ensure that no more than one (1) single-unit dwelling exists on the merged lot.
4. Prior to the issuance of any building permit for construction to cross the existing interior lot line between the two lots proposed to be merged, recordation of the lot merger documents with the County Recorder shall be required.
5. Prior to the final of any building permit or certificate of occupancy, the curb cut on 6th Street shall be closed.
6. The 5-foot side setback to the alley shall remain free and clear of any obstructions. There shall be no parking of vehicles within the 5-foot setback.
7. All improvements shall be constructed as required by Ordinance and the Public Works Department.
8. An encroachment permit is required for all work activities within the public right-of-way.
9. Lot Merger No. LM2013-003 shall expire unless exercised within 24 months from the date of approval as specified in Section 20.54.060 of the Newport Beach Municipal Code, unless an extension is otherwise granted.
10. To the fullest extent permitted by law, applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of the Davis Lot Merger and Setback Determination including, but not limited to, the Lot Merger No. LM2013-003 and Staff Approval SA2013-011. This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by applicant, City, and/or the parties initiating or bringing such proceeding. The applicant

shall indemnify the City for all of City's costs, attorneys' fees, and damages which City incurs in enforcing the indemnification provisions set forth in this condition. The applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.

EXHIBIT "B"

WEST BALBOA BLVD.



WEST OCEAN FRONT



524 West Ocean Front and 106 6th Street PA2013-176 Determination of Alternative Setback Area Locations

0 10 20 Feet



NEWPORT
Info
NEWPORT INFORMATION SYSTEMS

Attachment No. PC 2

Draft Resolution – Deny

RESOLUTION NO. #####

**A RESOLUTION OF THE PLANNING COMMISSION OF THE
CITY OF NEWPORT BEACH DENYING LOT MERGER NO.
LM2013-003 AND STAFF APPROVAL NO. SA2013-011 FOR A
LOT MERGER AND ALTERNATIVE SETBACK
DETERMINATION LOCATED AT 106 6TH STREET AND 524
WEST OCEAN FRONT (PA2013-176)**

THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH HEREBY FINDS AS
FOLLOWS:

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Morgan Davis, with respect to property located at 106 6th Street and 524 West Ocean Front, and legally described as Lot 15, Block 10, East Newport Tract and Parcel 1 of Lot Line Adjustment LLA2001-008 requesting approval of a Lot Merger and Alternative Setback Determination.
2. The applicant proposes to merge the two lots and requests a waiver of the parcel map requirement. The applicant also requests an Alternative Setback Determination to establish all required setbacks for the merged lot.
3. The subject properties are designated as Single-Unit Residential Detached (RS-D) in the General Plan Land Use Element and are located within the Single-Unit Residential (R-1) Zoning District.
4. The subject properties are located within the coastal zone and the Coastal Land Use Plan category is Single Unit Residential Detached (RSD-C).
5. Zoning Code Section 20.30.110 (C) states that in cases where the orientation of an existing lot and the application of the setback area are not consistent with the character or general orientation of other lots in the vicinity, the Community Development Director may redefine the location of the front, side, and rear setback areas to be consistent with surrounding properties. In this case, so that surrounding property owners would be notified of the application, the Community Development Director referred the request to the Planning Commission for consideration and final action.
6. A public hearing was held on October 24, 2013, in the Corona del Mar Conference Room at 100 Civic Center Drive, Newport Beach, related to the requested Lot Merger only. A notice of time, place, and purpose of the meeting was given in accordance with the Newport Beach Municipal Code. Evidence, both written and oral, was presented to, and considered by, the Zoning Administrator at this meeting. The Zoning Administrator referred the Lot Merger application to the Planning Commission to allow for concurrent review with the Alternative Setback Determination.

7. A public hearing was held on November 21, 2013, in the City Council Chambers at 100 Civic Center Drive, Newport Beach. A notice of time, place, and purpose of the meeting was given in accordance with the Newport Beach Municipal Code. Evidence, both written and oral, was presented to, and considered by, the Planning Commission at this meeting.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

Pursuant to Section 15270 of the California Environmental Quality Act (CEQA) Guidelines, projects which a public agency rejects or disapproves are not subject to CEQA review.

SECTION 3. REQUIRED FINDINGS.

Lot Merger

The Planning Commission may approve a conditional use permit only after making each of the required findings set forth in Section 19.68.030 and 19.08.030. In regards to the subject Lot Merger, the Planning Commission was unable to make the required findings based upon the following:

- 1.

Alternative Setback Determination

The Municipal Code does not set forth any required findings for the approval of Alternative Setback Determinations. The application was reviewed for compatibility with the neighborhood based on setback area, floor area ratio (FAR), and other development standards, to ensure that alternative setbacks do not result in development that would be incompatible with and not detrimental with the neighborhood. In regards to the subject Alternative Setback Determination, the Planning Commission found the application to be detrimental to the neighborhood based upon the following:

- 1.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Planning Commission of the City of Newport Beach hereby denies Lot Merger No. LM2013-003 and Staff Approval No. SA2013-011.
2. The Lot Merger action shall become final and effective ten (10) days after the adoption of this Resolution unless within such time an appeal is filed with the City Clerk in accordance with the provisions of Title 19 Subdivisions, of the Newport Beach Municipal Code.

3. The Alternative Setback Determination Staff Approval action shall become final and effective 14 days after the adoption of this Resolution unless within such time an appeal is filed with the City Clerk in accordance with the provisions of Title 20 Planning and Zoning, of the Newport Beach Municipal Code.

PASSED, APPROVED, AND ADOPTED THIS 21ST DAY OF NOVEMBER, 2013.

AYES:

NOES:

ABSTAIN:

ABSENT:

BY: _____
Bradley Hillgren, Chairman

BY: _____
Kory Kramer, Secretary

Attachment No. PC 3

Zoning Administrator Staff Report from
October 24, 2013



COMMUNITY DEVELOPMENT DEPARTMENT
PLANNING DIVISION
100 Civic Center Drive, P.O. Box 1768, Newport Beach, CA 92658-8915
(949) 644-3200 Fax: (949) 644-3229
www.newportbeachca.gov

**CITY OF NEWPORT BEACH
ZONING ADMINISTRATOR STAFF REPORT**

October 24, 2013
Agenda Item No. 6

SUBJECT: Davis Lot Merger - PA2013-176
106 6th Street and 524 West Ocean Front
Lot Merger No. LM2013-003

APPLICANT: Morgan Davis

PLANNER: Fern Nueno, Associate Planner
(949) 644-3227, fnueno@newportbeachca.gov

ZONING DISTRICT/GENERAL PLAN

- **Zone:** R-1 (Single-Unit Residential)
- **General Plan:** RS-D (Single-Unit Residential Detached)

PROJECT SUMMARY

A lot merger application and a request to waive the parcel map requirement for two properties, under common ownership, located on Balboa Peninsula. The merger would combine the two parcels into one lot for single-unit residential development.

RECOMMENDATION

Forward application to the Planning Commission for review concurrently with an Alternative Setback Determination application.

DISCUSSION

In conjunction with the Lot Merger application, the applicant requests an Alternative Setback Determination, which is reviewed by the Planning Commission. The Alternative Setback Determination is intended in cases where the orientation of an existing lot and the application of the setback area are not consistent with other lots in the vicinity. This will ensure that setback requirements for the merged lot and future development are consistent with surrounding properties.

ENVIRONMENTAL REVIEW

The project is categorically exempt under Section 15305, of the California Environmental Quality Act (CEQA) Guidelines - Class 5 (Minor Alterations in Land Use Limitations), which exempts minor alterations in land use limitations in areas with an average slope of less than 20 percent, which do not result in any changes in land use or density.

PUBLIC NOTICE

Notice of this application was published in the Daily Pilot, mailed to all owners of property within 300 feet of the boundaries of the site (excluding intervening rights-of-way and waterways) including the applicant, and posted on the subject property at least 10 days before the scheduled hearing, consistent with the provisions of the Municipal Code. Additionally, the item appeared on the agenda for this meeting, which was posted at City Hall and on the City website. Should the application be forwarded to Planning Commission, notice of the hearing would be provided pursuant to the Brown Act.

Prepared by:



Fern Nueno, Associate Planner

JC/fn

Attachments: ZA 1 Vicinity Map
 ZA 2 Project Plans

Attachment No. ZA 1

Vicinity Map

VICINITY MAP



Lot Merger No. LM2013-003
PA2013-176

106 6th Street and 524 West Ocean Front

Attachment No. ZA 2

Project Plans

EXHIBIT "A"
CITY OF NEWPORT BEACH
LOT LINE ADJUSTMENT L.A. 2013-
(LEGAL DESCRIPTION)

SHEET 1 OF 3

OWNER	EXISTING PARCELS AP NUMBER	PROPOSED PARCELS REFERENCE NUMBER
MORGAN W. DAVIS AND SANDRA L. DAVIS, TRUSTEES OF THE DAVIS FAMILY TRUST	048-073-02	PARCEL 1
	048-073-29	PARCEL 1

PARCEL 1:

ALL THAT CERTAIN REAL PROPERTY SITUATED IN THE COUNTY OF ORANGE, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

LOT 15 IN BLOCK 10 OF EAST NEWPORT, IN THE CITY OF NEWPORT BEACH, COUNTY OF ORANGE, STATE OF CALIFORNIA, AS SHOWN ON MAP RECORDED IN BOOK 3, PAGE 37 OF MISCELLANEOUS MAPS, RECORDS OF ORANGE COUNTY, CALIFORNIA.

TOGETHER WITH:

TOGETHER WITH PARCEL 1 OF LOT LINE ADJUSTMENT NUMBER 2001-008
AS PER DOCUMENT RECORDED AS INSTRUMENT NUMBER 20020811323
IN THE OFFICE OF THE COUNTY RECORDER OF ORANGE COUNTY, CA.



PREPARED BY :

Ron Miedema

RON MIEDEMA L.S. 4653
REGISTRATION EXPIRES 9-30-2013

DATE: 07-22-2013

EXHIBIT "B"

CITY OF NEWPORT BEACH

LOT LINE ADJUSTMENT L.A. 2013- (MAP)

SHEET 2 OF 3

OWNER	EXISTING PARCELS AP NUMBER	PROPOSED PARCELS REFERENCE NUMBER
MORGAN W. DAVIS AND SANDRA L. DAVIS, TRUSTEES OF THE DAVIS FAMILY TRUST	048-073-02	PARCEL 1
	048-073-29	PARCEL 1

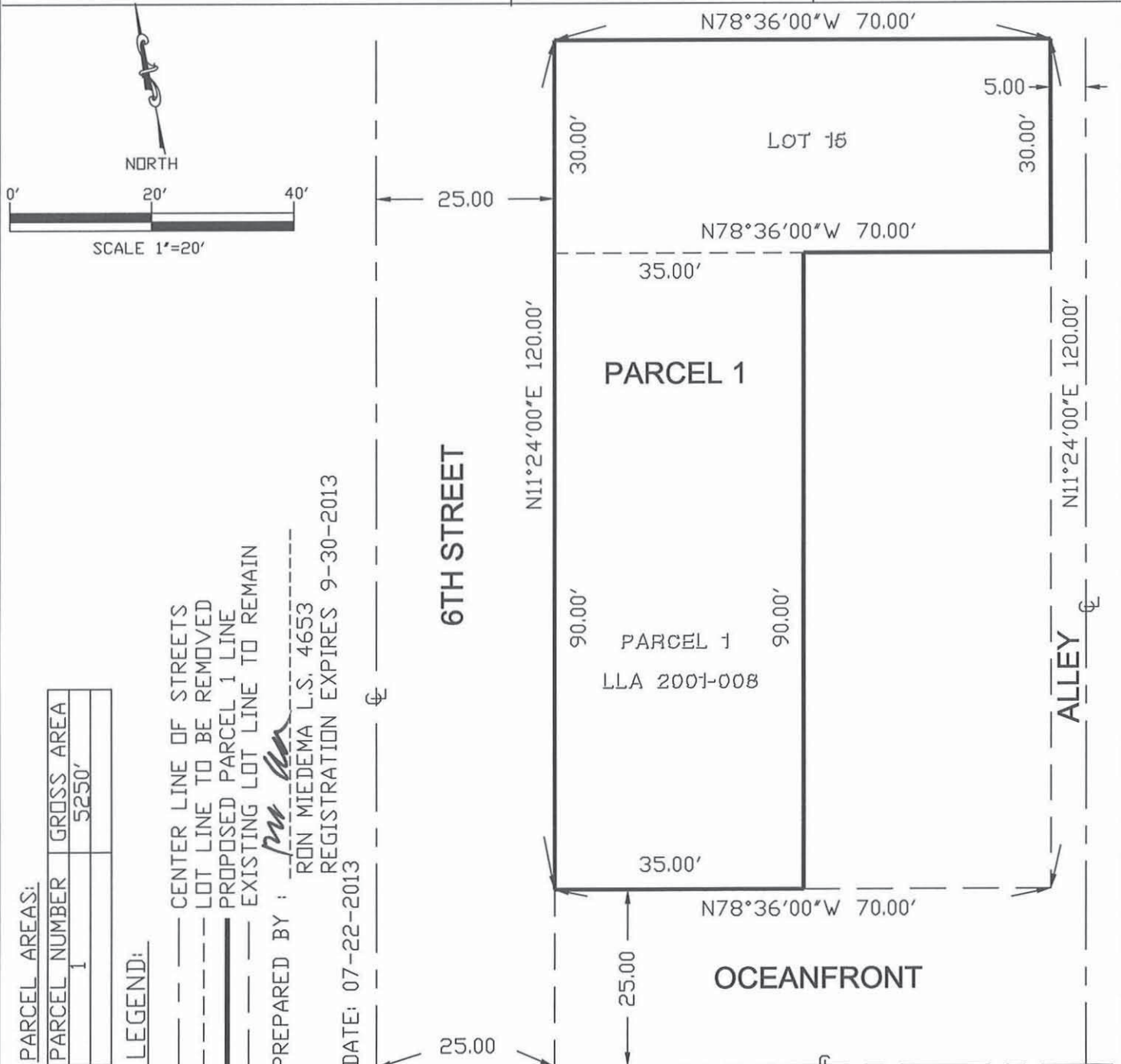


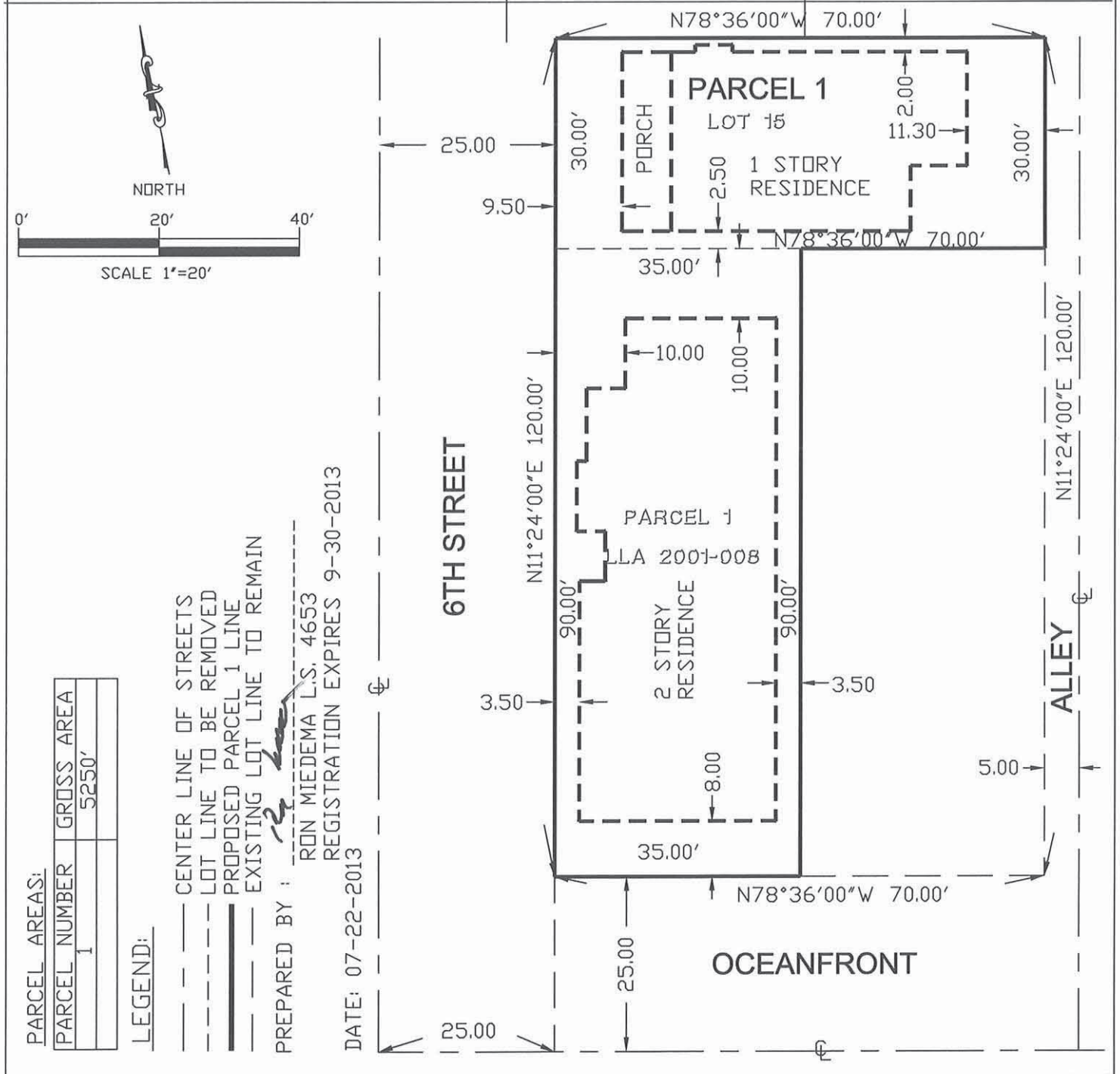
EXHIBIT "C"

CITY OF NEWPORT BEACH

LOT LINE ADJUSTMENT L.A. 2013- (SITE PLAN)

SHEET 3 OF 3

OWNER	EXISTING PARCELS AP NUMBER	PROPOSED PARCELS REFERENCE NUMBER
MORGAN W. DAVIS AND SANDRA L. DAVIS, TRUSTEES OF THE DAVIS FAMILY TRUST	048-073-02	PARCEL 1
	048-073-29	PARCEL 1



Attachment No. PC 4

Correspondence Received

Norton Younglove
514 W Ocean Front
Newport Beach, Cal
92661

RECEIVED BY
COMMUNITY
OCT 24 2013
DEVELOPMENT
CITY OF NEWPORT BEACH

City of Newport Beach
Community Development Department
Planning Division 100 Civic Center Drive
P.O. Box 1768
Newport Beach, CA 92658

RE: Davis Lot Merger
Project File No. PA2013-176
Location 106 6th street and 524 W Oceanfront

The alley in back of 106 6th street is very narrow. The fence needs to be set back several feet. Currently it is very difficult to make the turn and the trash truck has to back out of the alley. This alley is the only access for the homes in this block. The other house on 6th street is set back adequately.

Thank you for solving a neighborhood problem.

Sincerely,

Norton Younglove

1/20/13 10:00 AM 10/24/13 10:00 AM

10/24/13 10:00 AM 10/24/13 10:00 AM
10/24/13 10:00 AM 10/24/13 10:00 AM
10/24/13 10:00 AM 10/24/13 10:00 AM
10/24/13 10:00 AM 10/24/13 10:00 AM

McClellan Harris III
509 West Balboa Boulevard
Newport Beach, California 92661

22 October 2013

City of Newport Beach
Community Development Department
Planning Division, 100 Civic Center Drive
P.O. Box 1768
Newport Beach, CA 92658

RECEIVED BY
COMMUNITY

OCT 24 2013

DEVELOPMENT
CITY OF NEWPORT BEACH

RE: Davis Lot Merger - Location: 106 6th Street and 524 West Oceanfront
Project File No. PA 2013-176
Activity No LM2013-003

This letter is written to express my concerns that the City ensure that this project requires a setback if these two parcels are combined. Specifically, the alley-way access behind 6th Street is significantly impaired due existing structure at the property line. This parcel is the only one that currently has this issue as new construction in this area over the years has required the set back.

As currently situated, the lot construction at the property line significantly impairs local resident traffic. The existence of this one lot having construction at the property line (i) impairs adequate traffic access, (ii) requires that the garbage truck must back up twice to collect the refuse on Balboa Boulevard and 6th street, and (iii) often requires automobile traffic to take two attempts at making the turn due to the tight turning area imposed by the existing lot-line construction at 6th street. This situation does present an unsafe condition that could be ameliorated simply by requiring the set back on the lone 6th street property.

I would appreciate your mailing me staff report on this issue when available.

Sincerely,



McClellan Harris III

Joseph DeCarlo
510 W. Oceanfront
Newport Beach, CA 92661

October 16, 2013

City of Newport Beach
Community Development Department
Planning Division, 100 Civic Center Drive
PO Box 1768
Newport Beach, CA 92658



RE: Davis Lot Merger
Project File No. PA 2013-176
Location 106 6th St. and 524 W. Oceanfront
Activity No. LM2013-003

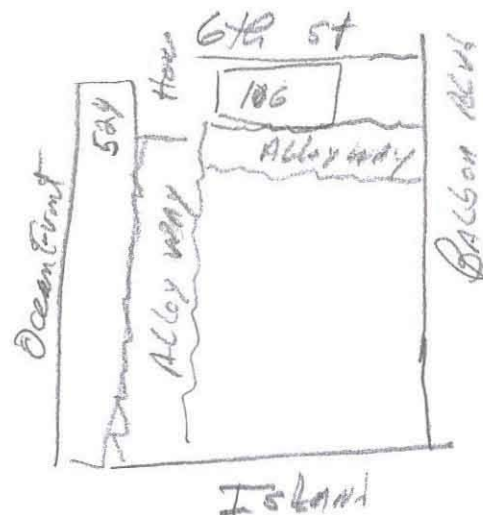
The alley in back of 106 6th Street is very narrow and their fence abuts the alley making it difficult to make the 90 degree turn that goes to Balboa Blvd. Other houses have set backs from alley but this one does not. There should be a set back from the alley if these two parcels are combined. This is a dangerous situation. Also, most cars and emergency vehicles have to back up and straighten out to transverse the turn in the alley. The trash truck cannot make turn and has to back all the way out of alley to the island and then go in off of Balboa Blvd. to pick up trash at 106 6th Street.

I will be out of town on October 24, 2013 and would like you to email me staff report prior to hearing.

Sincerely,

A handwritten signature in black ink, appearing to read "Joe DeCarlo".

Joseph DeCarlo, MBA, CPM, CCIM, CRE
ldmgt3@aol.com



Attachment No. PC 5

Lot Merger

EXHIBIT "A"
CITY OF NEWPORT BEACH
LOT LINE ADJUSTMENT L.A. 2013-
(LEGAL DESCRIPTION)

SHEET 1 OF 3

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IN THE OFFICE OF THE COUNTY RECORDER OF ORANGE COUNTY, CA.



PREPARED BY :



RON MIEDEMA L.S. 4653
REGISTRATION EXPIRES 9-30-2013

DATE: 07-22-2013

EXHIBIT "B"

CITY OF NEWPORT BEACH

LOT LINE ADJUSTMENT L.A. 2013- (MAP)

SHEET 2 OF 3

OWNER	EXISTING PARCELS AP NUMBER	PROPOSED PARCELS REFERENCE NUMBER
MORGAN W. DAVIS AND SANDRA L. DAVIS, TRUSTEES OF THE DAVIS FAMILY TRUST	048-073-02	PARCEL 1
	048-073-29	PARCEL 1

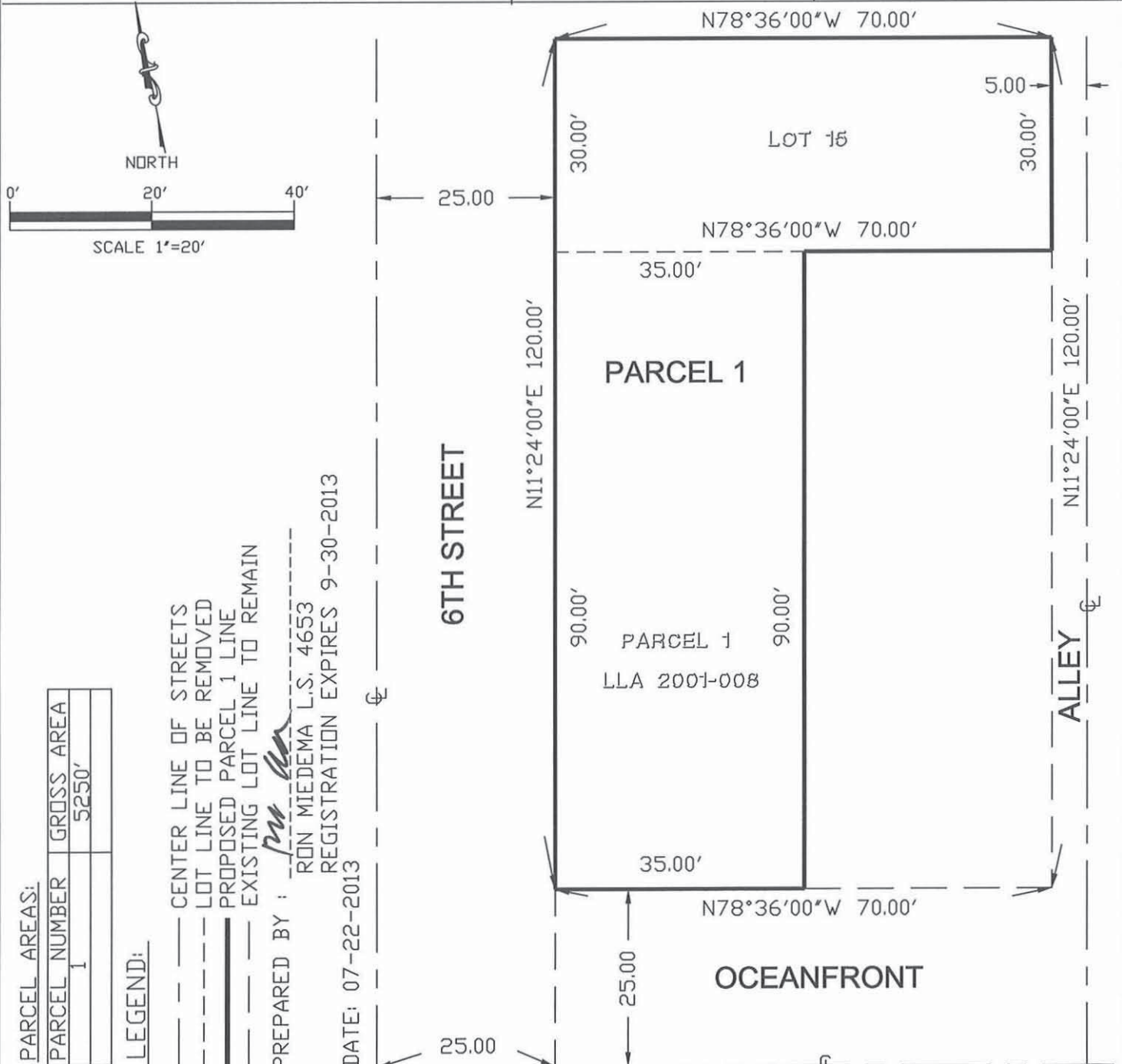


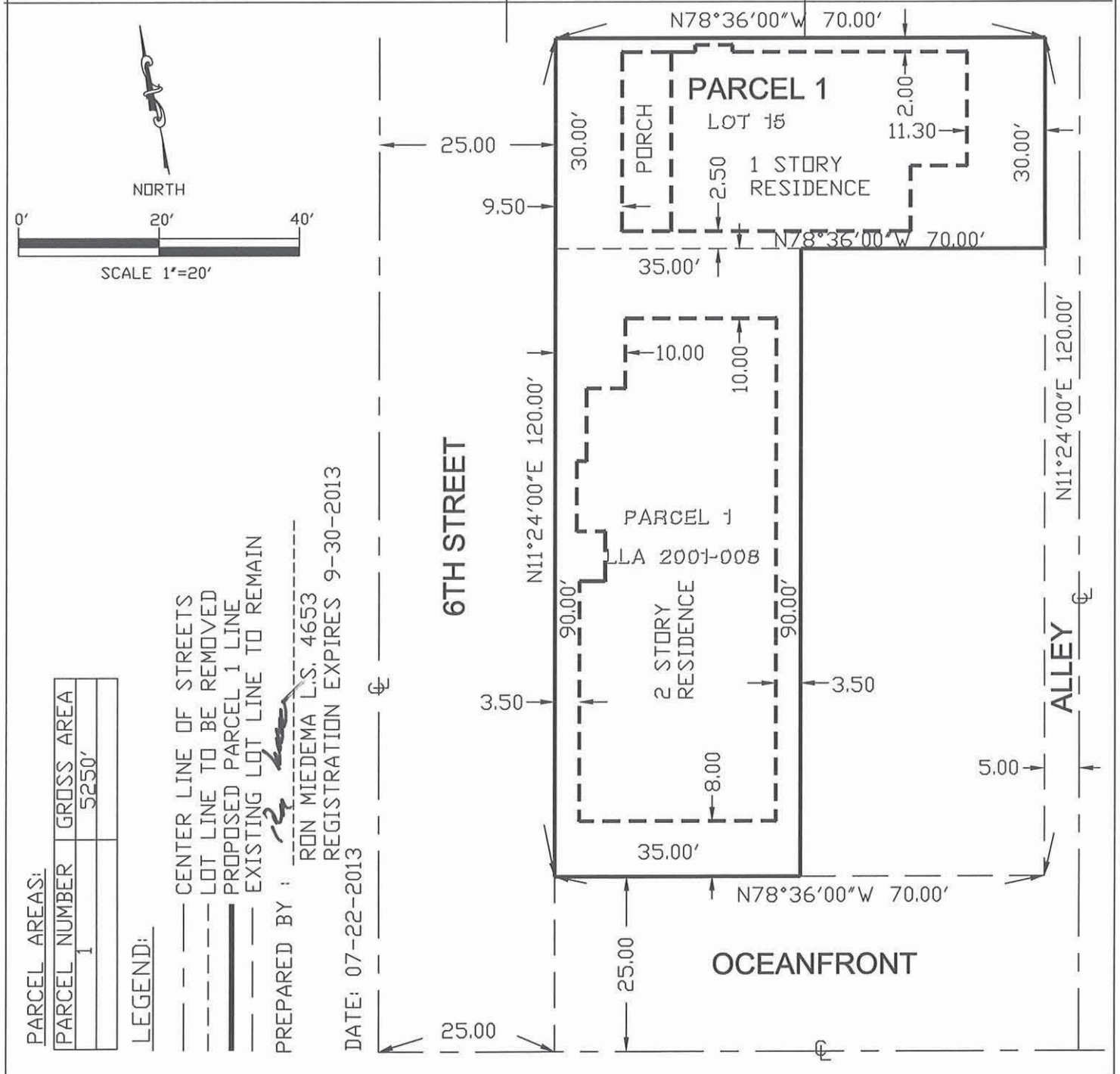
EXHIBIT "C"

CITY OF NEWPORT BEACH

LOT LINE ADJUSTMENT L.A. 2013- (SITE PLAN)

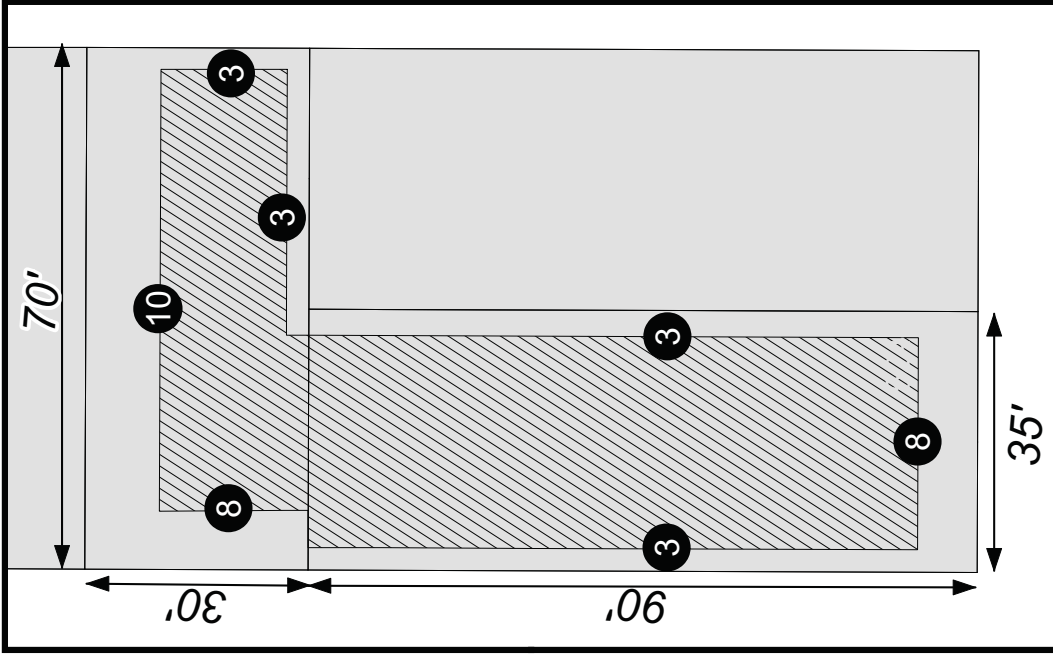
SHEET 3 OF 3

OWNER	EXISTING PARCELS AP NUMBER	PROPOSED PARCELS REFERENCE NUMBER
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	048-073-29	PARCEL 1

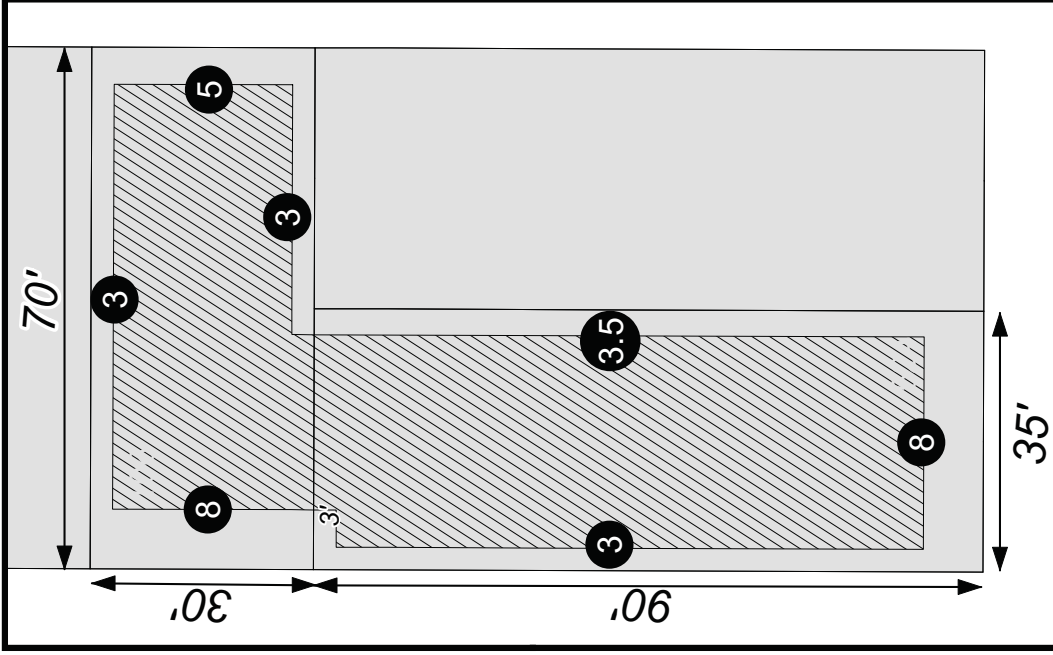


Attachment No. PC 6

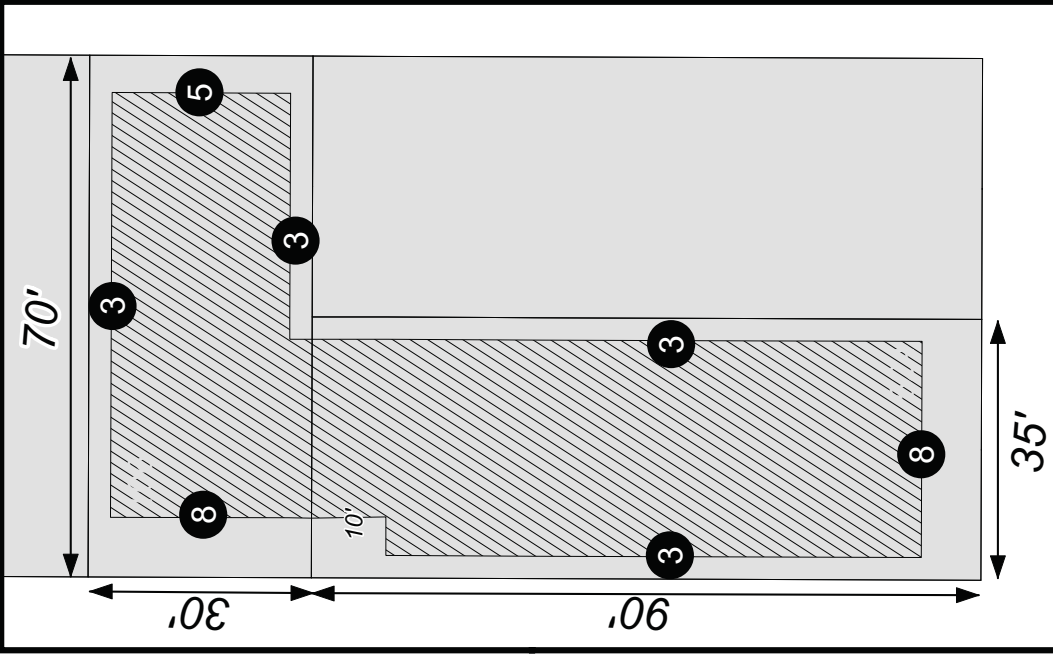
Setback Comparison



Default Setbacks



Proposed Setbacks



Staff Recommendation

Attachment No. PC 7

Setback Map S-2E (excerpt)

